

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

LEE VANCE THOMAS, III,

PETITIONER

V.

NO. 1:01CR14-P

UNITED STATES OF AMERICA,

RESPONDENT

ORDER

Petitioner, while driving in his truck in Lafayette County, Mississippi, was pulled over by state troopers, arrested, and held in the Lafayette County jail. He was charged with various drug offenses. He entered a plea of guilty to one count and was sentenced in October 2001 to 96 months confinement. When petitioner was arrested his truck was confiscated, along with approximately \$5500 cash and various items that were in the truck. Before the court are four motions relating to the seizure and confiscation. First (docket entry 48), petitioner asks for return of the truck, the cash, the items that were in the truck (including sun glasses, a watch, and 900 compact discs). Next, petitioner asks for summary judgment on the issue of return of his property (docket entry 59), and for default judgment on the question (docket entry 63). The final motion is by the respondent (docket entry 65), asking for approval to file an out-of-time response to petitioner's motion for return of property.

The respondent stated that it received only petitioner's § 2255 motion and not the motion for return of property. As soon as the respondent was made aware of the motion, the motion for an out-of-time response was filed, along with an answer to the petitioner's motion (docket entry 64). The motion appears to be well-taken and is **granted**.

The truck and cash were administratively forfeited by the Drug Enforcement Administration following proper procedures. The compact discs which were taken by state troopers remained in the custody of the state and have not been in federal custody. No sunglasses were listed on the inventory, and have not been in federal custody. A watch was listed as being turned over to DEA Agent Phil Rust, and is presumably in the custody of the DEA. Petitioner should contact the Mississippi Highway Patrol to obtain return of the compact discs and sunglasses, since these items were never in federal custody and cannot be returned by federal authorities. He should also contact the DEA office in Knoxville, Tennessee, to obtain the watch. The truck and cash will not be returned since they were lawfully confiscated. Accordingly, petitioner's motions 48, 59, and 63 are **denied**.

SO ORDERED, this the 13th day of March, 2006.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE